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5 **UNITED STATES DISTRICT COURT**
6 **CENTRAL DISTRICT OF CALIFORNIA**
7 **WESTERN DIVISION**
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9 SECURITIES AND EXCHANGE
10 COMMISSION,

11 Plaintiff,

12 vs.

13 JAMMIN' JAVA CORP., dba MARLEY
14 COFFEE, SHANE G. WHITTLE,
15 WAYNE S. P. WEAVER, MICHAEL K.
16 SUN, RENE BERLINGER, STEPHEN B.
17 WHEATLEY, KEVIN P. MILLER,
18 MOHAMMED A. AL-BARWANI,
19 ALEXANDER J. HUNTER, and
20 THOMAS E. HUNTER,

21 Defendants.
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Case No. 2:15-CV-08921 SVW (MRW_x)

**[PROPOSED] FINAL JUDGMENT AS
TO DEFENDANT WAYNE WEAVER**

1 Having entered Summary Judgment against Defendant Wayne Weaver on
2 Counts I, II, and IV of the SEC's Amended Complaint (Dkt. #218), and having
3 considered the SEC's Motion for Injunctive and Monetary Relief (Dkt. #220), the
4 Court ORDERS that the SEC's Motion for Injunctive and Monetary Relief is
5 GRANTED. The Court hereby enters final judgment against Defendant Wayne
6 Weaver (the "Defendant") as follows:

7 **I.**

8 IT IS HEREBY ordered that Defendant is permanently restrained and enjoined
9 from violating Section 5 of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §
10 77e, by, directly or indirectly, in the absence of any applicable exemption:

11 (a) unless a registration statement is in effect as to a security, making use of
12 any means or instruments of transportation or communication in interstate commerce
13 or of the mails to sell such security through the use or medium of any prospectus or
14 otherwise;

15 (b) unless a registration statement is in effect as to a security, carrying or
16 causing to be carried through the mails or in interstate commerce, by any means or
17 instruments of transportation, any such security for the purpose of sale or for delivery
18 after sale; or

19 (c) making use of any means or instruments of transportation or
20 communication in interstate commerce or of the mails to offer to sell or offer to buy
21 through the use or medium of any prospectus or otherwise any security, unless a
22 registration statement has been filed with the Commission as to such security, or
23 while the registration statement is the subject of a refusal order or stop order or (prior
24 to the effective date of the registration statement) any public proceeding or
25 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

26 IT IS FURTHER ordered that, as provided in Federal Rule of Civil Procedure
27 65(d)(2), the foregoing paragraph also binds the following who receive actual notice
28 of this Final Judgment by personal service or otherwise: (a) Defendant's officers,

agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY FURTHER ordered that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 13(d) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78m(d), and Rules 13d-1 and 13d-2 thereunder, 17 C.F.R. §§ 240.13d-1 and 240.13d-2, by failing to file with the Commission a statement on Schedule 13D, 17 C.F.R. § 240.13d-101, after acquiring directly or indirectly the beneficial ownership of more than 5% of a class of equity securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or failing to file with the Commission an amendment disclosing a material increase or decrease in the percentage of the class beneficially owned in accordance with the requirements of Section 13(d) of the Exchange Act, 15 U.S.C. § 78m(d), and Rules 13d-1 and 13d-2 thereunder.

IT IS FURTHER ordered that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS HEREBY ordered that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a

1 material fact necessary in order to make the statements made, in the light
2 of the circumstances under which they were made, not misleading; or
3 (c) to engage in any act, practice, or course of business which operates or
4 would operate as a fraud or deceit upon any person.

5 IT IS FURTHER ordered that, as provided in Federal Rule of Civil Procedure
6 65(d)(2), the foregoing paragraph also binds the following who receive actual notice
7 of this Final Judgment by personal service or otherwise: (a) Defendant's officers,
8 agents, servants, employees, and attorneys; and (b) other persons in active concert or
9 participation with Defendant or with anyone described in (a).

10 **IV.**

11 IT IS FURTHER ordered that Defendant is hereby permanently barred from
12 participating in an offering of penny stock, including engaging in activities with a
13 broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to
14 induce the purchase or sale of any penny stock. A penny stock is any equity security
15 that has a price of less than five dollars, except as provided in Rule 3a51-1 under the
16 Exchange Act, 17 C.F.R. § 240.3a51-1.

17 **V.**

18 IT IS FURTHER ordered that Defendant shall pay disgorgement in the amount
19 of \$47,442,101.70, representing profits gained as a result of the conduct alleged in the
20 Amended Complaint, together with prejudgment interest thereon in the amount of
21 \$9,393,958.48, and a civil penalty in the amount of \$47,442,101.70 pursuant to
22 Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the
23 Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant shall satisfy this obligation by
24 paying \$104,278,162 to the Securities and Exchange Commission within 14 days
25 after entry of this Final Judgment.

26 Defendant may transmit payment electronically to the Commission, which will
27 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also
28 be made directly from a bank account via Pay.gov through the SEC website at

<http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

Enterprise Services Center

Accounts Receivable Branch

6500 South MacArthur Boulevard

Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Wayne Weaver as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for monetary relief by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

VI.

IT IS FURTHER ordered, adjudged, and decreed that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

JUDGMENT ENTERED:

Dated: _____, 2017

United States District Judge